

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION

FILED-CLERK  
U.S. DISTRICT COURT  
2007 OCT -1 AM 10:52  
TX EASTERN-MARSHALL

VALERIE J. DANIELL,

Plaintiff,

VERSUS

RITA H. MOHSIN,

Defendant.

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CIVIL ACTION NO. 2 - 07 CV - 438

HON. DISTRICT JUDGE T. John Word

HON. MAGISTRATE JUDGE \_\_\_\_\_

PLAINTIFF'S ORIGINAL COMPLAINT

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

NOW INTO COURT, through undersigned counsel, comes VALERIE DANIELL and files this, her Original Complaint. In support thereof, she would respectfully show the Court as follows:

I.  
PARTIES

1. VALERIE DANIELL, an individual, is a citizen of Colorado and a domiciliary of Littleton, Colorado.
2. RITA H. MOHSIN, an individual, is a citizen of Texas and domiciliary of Flower Mound, Texas.

**II.  
JURISDICTION AND VENUE**

3. Jurisdiction is proper in this Court because plaintiff is a citizen of the state of Colorado and defendant is a citizen of the state of Texas. The matter in controversy exceeds, exclusive of interest and costs, the sums specified by 28 U.S.C. § 1332.
4. Venue is proper in the Eastern District of Texas under the provisions of 28 U.S.C. § 1391 (a) (1), because at all times relevant hereto, defendant was a resident of the Eastern District of Texas.
5. Because venue is proper in the Eastern District of Texas, this suit is properly maintainable in any division of the Eastern District of Texas. *Mohamed v. Mazda Motor Co.*, 90 F. Supp. 2d 757 (E.D. Tex. 2000); *Singleton v. Volkswagen of America, Inc.*, 2006 WL 2634768 (E.D. Tex. Sept. 12, 2006).

**III.  
FACTUAL BACKGROUND**

6. Valerie Daniell has a medical condition known as incomplete quadriplegia. In 2000, Valerie suffered an injury to her spinal cord that initially rendered her completely paralyzed. After treatment, therapy, and hard work, Valerie regained use of her limbs. By January of 2007, she was able to work, walk short distances with a cane, and to travel longer distances with a walker or wheel chair.
7. Since 1975, Valerie's career and livelihood have revolved around the education and care of deaf persons. Fluency in American Sign Language is a core requirement of such work. As such, Valerie's ability to use her hands is a critical component of her

job skills. After her 2000 accident, Valerie gained function in both of her hands and returned to work as an educator of deaf children.

8. On January 21, 2007, Valerie boarded American Airlines Flight 654 out of Dallas-Fort Worth International Airport to Boston, Massachusetts. Valerie made her way through DFW airport to the gate in her wheelchair. Valerie then walked onto the plane using her cane. American Airlines attendants helped Valerie board the plane before the rest of the passengers embarked and helped her stow her bags. All who observed Valerie during this process knew or should have known of her disability.
9. While Valerie waited in her seat for the rest of the plane's passengers to board, Defendant Rita H. Mohsin boarded the plane with a large, heavy piece of luggage on wheels. Ms. Mohsin decided to stow her luggage in the overhead compartment directly above Valerie's head. Ms. Mohsin struggled in an attempt to fit the luggage into the overhead bin, but the luggage was too large. Apparently frustrated, Ms. Mohsin gave up and turned to walk away, leaving the luggage perched precariously outside of the overhead bin on its exterior lip. Ms. Mohsin knew or should have known that the luggage was not properly inserted into the overhead compartment.
10. Before Ms. Mohsin could take more than a step or two, the luggage fell squarely onto Valerie's head and caused her serious bodily injury.
11. Immediately after Ms. Mohsin dropped her luggage on Valerie's head, flight attendants and other passengers rushed to Valerie's aid. Ms. Mohsin retrieved her bag and took her seat without acknowledging Valerie.

12. This 2007 accident has seriously aggravated Valerie's pre-existing incomplete quadriplegia, causing significant deterioration of her condition. Among other injuries caused by the 2007 accident, Valerie has suffered loss of sensation in her legs and loss of function of her left hand. The 2007 accident has erased much of the improved body function that Valerie fought so hard to achieve.
13. Due to the loss of function in her left hand, among other injuries, Valerie is unable communicate with sign language, rendering her incapable of continuing to pursue her career in education of the deaf.
14. As a result of the 2007 accident, Valerie has suffered mental and emotional anguish. After working for years in physical therapy to regain use of her arms and legs, the loss of these hard-won gains has demoralized Valerie and caused her severe mental and emotional distress.

#### IV. NEGLIGENCE

15. This accident was caused by the negligence of Rita H. Mohsin, which includes her failure to exercise reasonable care to avoid this foreseeable injury. Ms. Mohsin had a duty to exercise reasonable care to avoid a foreseeable risk of injury to Valerie. Any reasonable person would have foreseen that the heavy bag left hanging outside of the overhead compartment would fall, causing injury to Valerie seated below. Ms. Mohsin had a duty to exercise reasonable care to avoid dropping her heavy bag on Valerie's head.

**V.  
DAMAGES**

16. As a result of the incident sued on herein, Valerie Williams received injuries about her body, which include, but are not limited to the following:
- A) Injury to her cervical spine and discs resulting in deterioration of her preexisting condition;
  - B) partial loss of function of her left hand;
  - C) loss of sensation in legs;
  - D) uncontrollable muscle spasms in legs; and
  - E) general loss of strength and mobility.
17. These injuries caused Valerie Williams mental and physical pain and suffering.
18. As a result of the accident sued on herein, Valerie Williams has been unable to continue to work and has suffered the loss of wages in the past and will continue to suffer the loss of wages and earning capacity in the future.
19. As a result of the accident and the injuries received therefrom, Valerie Williams has sustained damages which include, but are not limited to, the following:
- A) Past medical bills
  - B) Future medical bills
  - C) Past and future lost wages
  - D) Past and future lost earning capacity
  - E) Past mental and physical pain and suffering
  - F) Future mental and physical pain and suffering
  - G) Permanent disability

- H) Loss of household services
- I) Loss of enjoyment of life

WHEREFORE, plaintiff prays that there be judgment herein in favor of the plaintiff, VALERIE DANIELL, and against defendant, RITA H. MOHSIN, for a reasonable sum in dollars, together with legal interest from the date of judicial demand until paid, and all costs of this proceeding, as well as all general necessary and equitable relief.

Respectfully submitted,

SAM N. GREGORIO, APLC  
2800 YOUREE DRIVE SUITE 120  
SHREVEPORT, LA 71104  
Telephone: (318) 865-8680  
Facsimile: (318) 865-8565

BY: 

Sam N. Gregorio, Texas Bar No. 24030446  
Roy S. Payne, Louisiana Bar No. 10360 T.A.  
Julie E. Payne, Texas Bar No. 24046601

ATTORNEYS FOR PLAINTIFF

## CIVIL COVER SHEET

2-07 CV-438 T-JW

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM)

## I. (a) PLAINTIFFS

VALERIE J. DANIELL

## DEFENDANTS

RIITA H. MOHSIN

(b) County of Residence of First Listed Plaintiff Arapahoe County, CO  
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant U.S. DISTRICT COURT, TX  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED

Attorneys (If Known)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Roy S. Payne, Sam N. Gregorio APLC, 2800 Youree Dr., Suite 120,  
Shreveport, La. 71104

RECEIVED

U.S. DISTRICT COURT, TX  
EASTERN DISTRICT OF TEXAS

OCT 01 2007

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |                                       |                                       |   |                            |                            |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
|   | Plf                                   | Def                                   |   | Plf                        | Def                        |
| Citizen of This State                   | <input type="checkbox"/> 1            | <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input checked="" type="checkbox"/> 2 | <input type="checkbox"/> 2            | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3            | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury  <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability  <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157  <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS:</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt Relations <input type="checkbox"/> 730 Labor/Mgmt Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))  <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

## V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
28 U.S.C. 1332

Brief description of cause:  
Negligent injury by defendant dropping suitcase on plaintiff's head aboard aircraft

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND:

☐ Yes ☒ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

Sept. 28, 2007

Roy S. Payne

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG JUDGE \_\_\_\_\_